

The sale of greeting card reproductions of art works by an art museum exempt from tax under section 501(c)(3) of the Code does not constitute unrelated trade or business.

Advice has been requested whether, under the circumstances described below, the sales activities of an educational organization that is exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 constitutes unrelated trade or business within the meaning of section 513 of the Code.

The organization maintains and operates an art museum devoted to the exhibition of modern art. The museum offers for sale to the general public greeting cards that display printed reproductions of selected works from the museum's collection and from other art collections. The proportions of the reproductions are determined by the form of the original work and care is taken with respect to other technical aspects of the reproduction process. Each card is imprinted with the name of the artist, the title or subject matter of the work, the date or period of its creation, if known, and the museum's name. The cards contain appropriate greetings and are personalized on request.

The organization sells the cards in the shop it operates in the museum. It also publishes a catalogue in which it solicits mail orders for the greeting cards. The catalogue is available at a small charge and is advertised in magazines and other publications throughout the year. In addition, the shop sells the cards at quantity discounts to retail stores. As a result, a large volume of cards are sold at a significant profit.

Section 511(a) of the Code imposes a tax upon the unrelated business taxable income (as defined in section 512) of organizations exempt from Federal income tax under section 501(c)(3). Section 512(a) of the Code defines 'unrelated business taxable income' as income from any 'unrelated trade or business' regularly carried on by the organization as computed in the manner provided in section 512.

The term 'unrelated trade or business' is defined in section 513 of the Code as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt functions.

Section 513(c) of the Code and section 1.513-1(b) of the Income Tax Regulations provide that trade or business includes any activity which is carried on for the production of income from the sale of goods.

Section 1.513-1(d)(2) of the regulations provides that a trade or business is 'substantially related' to purposes for which exemption is granted only if the production or distribution of the goods from which the gross income is derived 'contributes importantly' to the accomplishment of those purposes.

The museum is exempt as an educational organization on the basis of its ownership, maintenance, and exhibition for public viewing of works of art. The sale of greeting cards displaying printed reproductions of art works contributes importantly to the achievement of the museum's exempt educational purposes by stimulating and enhancing public awareness, interest, and appreciation of art. Moreover, a broader segment of the public may be encouraged to visit the museum itself to share in its educational functions and programs as a result of seeing the cards. The fact that the cards are promoted and sold in a clearly commercial manner at a profit and in competition with commercial greeting card publishers does not alter the fact of the activity's relatedness to the museum's exempt purpose.

Accordingly, it is held that these sales activities do not constitute unrelated trade or business under section 513 of the Code.